

REMARKS

Forty-five claims were originally filed in the present Application. Claims 1-7, 9-12, 14-27, 29-32, and 34-45 currently stand rejected. Claims 8, 13, 28, and 33 have been allowed. Claims 1, 2, 7, 11, 13, 21, 22, 27, 31, and 33 are amended herein. Reconsideration of the Application in view of the foregoing amendments and the following remarks is respectfully requested.

Rejection under 35 U.S.C. §112, Second Paragraph

In paragraph 2 of the Office Action, the Examiner indicates that claims 4 and 24 are rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner states that claims 4 and 24 are “incomplete for omitting essential steps” Applicants respectfully traverse.

Applicants submit that claims 4 and 24 recite specific physical communication paths between a given user device and the event server. Claims 4 and 24 nowhere recite sequential “steps”, and therefore can not be characterized as “omitting essential steps, such omission amounting to a gap between the steps,” as stated by the Examiner.

The Examiner further states that “[s]o long as a connection is made, the details . . . appear to have no connection with the paths of the connection.” Applicants respectfully disagree. Applicants submit that the means of physical connection between a user device and the event server are relevant aspects of Applicants’ claimed invention. In view of the foregoing remarks, Applicants

believe that the Examiner's rejections are addressed, and respectfully request that the rejection under 35 U.S.C. §112, second paragraph be withdrawn so that claims 4 and 24 may issue in a timely manner.

In paragraph 2 of the Office Action, the Examiner also indicates that claims 5-7 and 25-27 are rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner states that claims 5-7 and 25-27 are "incomplete for omitting essential steps" Applicants respectfully traverse.

Applicants submit that claims 5-7 and 25-27 recite specific physical elements of a user device. Claims 5-7 and 25-27 nowhere recite sequential "steps", and therefore can not be characterized as "omitting essential steps, such omission amounting to a gap between the steps," as stated by the Examiner.

The Examiner further states that "[t]here is no apparent connection between details of a user device . . . so long as a connection is made." Applicants respectfully disagree. Applicants submit that the physical characteristics of a user device are relevant aspects of Applicants' claimed invention. In view of the foregoing remarks, Applicants believe that the Examiner's rejections are addressed, and respectfully request that the rejection under 35 U.S.C. §112, second paragraph be withdrawn so that claims 5-7 and 25-27 may issue in a timely manner.

35 U.S.C. § 102(e)

In paragraph 3 of the Office Action, the Examiner rejects claims 1-3, 21-23, and 43-44 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,564,380 to Murphy (hereafter Murphy). The Applicants respectfully traverse these rejections for at least the following reasons.

“For a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be *identically* shown in a single reference.” *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (CAFC 1988). The Applicants submit that Murphy fails to identically teach every element of the claims, and therefore does not anticipate the present invention.

Regarding the Examiner’s rejection of independent claims 1 and 21, Applicants respond to the Examiner’s §102 rejection as if applied to amended independent claims 1 and 21, which now recite “*said restricted access being provided to said user device while said system user is at said event location*” and which are limitations that are not taught or suggested either by the cited reference or by the Examiner’s citations thereto.

Murphy teaches an “Internet-based video feed management system” that provides video information to “production companies at other locations” (see Abstract). Applicants therefore submit that Murphy fails to teach providing restricted access to event content “while said system user is at said event location,” as claimed by Applicants. Applicants therefore submit that Murphy does not anticipate Applicants’ claimed invention.

With regard to claim 44, “means-plus-function” language is utilized to recite elements and functionality similar to those recited in claims 1 and 21 which are discussed above. Applicants therefore incorporate those remarks by reference with regard to claim 44. In addition, the Courts have frequently held that “means-plus-function” language, such as that of claim 44, should be construed in light of the Specification.

More specifically, means-plus-function claim elements should be *construed to cover the corresponding structure, material or acts described in the specification*, and equivalents thereof. Applicants respectfully submit that, in light of the substantial differences between the teachings of Murphy and Applicants’ invention as disclosed in the Specification, claim 44 is therefore not anticipated or made obvious by the teachings of Murphy.

Regarding the Examiner’s rejection of dependent claims 2-3 and 22-23, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 2-3 and 22-23 so that these claims may issue in a timely manner.

Because a rejection under 35 U.S.C. §102 requires that every claimed limitation be *identically* taught by a cited reference, and because the Examiner fails to cite Murphy to identically teach the claimed invention, Applicants

respectfully request reconsideration and allowance of claims 1-3, 21-23, and 43-44, so that these claims may issue in a timely manner.

35 U.S.C. § 103

On page 4 of the Office Action, the Examiner rejects claims 4, 24, and 46 under 35 U.S.C. § 103(a) as being unpatentable over Murphy in view of U.S. Patent No. 6,466,938 to Goldberg (hereafter Goldberg). The Applicants respectfully traverse these rejections for at least the following reasons.

Regarding the Examiner's rejection of dependent claims 4 and 24, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 4 and 24, so that these claims may issue in a timely manner.

With regard to independent claim 46, claim language is utilized to recite elements and functionality similar to those recited in claims 1 and 21 which are discussed above. In particular, claim 46 recites "said user device performing said wireless communications procedure at a specific geographic event location of a live event" Applicants therefore incorporate those remarks made above in connection with claims 1 and 21 by reference here with regard to claim 46.

For example, Applicants submit that the cited references fail to teach providing restricted access to event content, "only when said system user is at said event location," as claimed by Applicants.

For at least the foregoing reasons, the Applicants submit that claims 4, 24, and 46 are not unpatentable under 35 U.S.C. § 103 and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 4, 24, and 46 under 35 U.S.C. § 103.

On page 5 of the Office Action, the Examiner rejects claims 5-7, 9-12, 14-20, 25-27, 29-32, and 34-41 under 35 U.S.C. § 103(a) as being unpatentable over Murphy in view of U.S. Patent No. 6,769,028 to Sass et al. (hereafter Sass). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria must be met, as set forth in M.P.E.P. §2142:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The initial burden is therefore on the Examiner to establish a *prima facie* case of

obviousness under 35 U.S.C. § 103(a). Applicants respectfully traverse the Examiner's rejections, and submit that the cited references fail to teach a number of the claimed elements of the present invention. The Applicants therefore respectfully submit that the obviousness rejections under 35 U.S.C §103 are improper.

Regarding the Examiner's rejection of dependent claims 5-7, 9-12, 14-20, 25-27, 29-32, and 34-41, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 5-7, 9-12, 14-20, 25-27, 29-32, and 34-41, so that these claims may issue in a timely manner.

In addition, the Court of Appeals for the Federal Circuit has held that "obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination." In re Geiger, 815 F.2d 686, 688, 2 U.S.P.Q.2d 1276, 1278 (Fed. Cir. 1987). Applicants submit that the cited references do not suggest a combination that would result in Applicants' invention, and therefore the obviousness rejection under 35 U.S.C §103 is improper.

With regard to claims 18 and 38, the Examiner takes "Official Notice" of certain claim limitations. Applicants respectfully request the Examiner to cite

references in support of the Official Notice, and to also indicate where an explicit teaching to combine the cited references may be found. Alternately, the Applicants request that the Examiner reconsider and withdraw the rejections of claims 18 and 38 under 35 U.S.C §103.

For at least the foregoing reasons, the Applicants submit that claims 5-7, 9-12, 14-20, 25-27, 29-32, and 34-41 are not unpatentable under 35 U.S.C. § 103 over Murphy in view of Sass and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 5-7, 9-12, 14-20, 25-27, 29-32, and 34-41 under 35 U.S.C. § 103.

In paragraph 5 of the Office Action, the Examiner rejects claims 13, 33, and 42 under 35 U.S.C. § 103(a) as being unpatentable over Murphy in view of U.S. Patent No. 5,604,800 to Johnson et al. (hereafter Johnson). The Applicants respectfully traverse these rejections for at least the following reasons.

Regarding the Examiner's rejection of independent claims 13 and 33, Applicants respond to the Examiner's §103 rejection as if applied to amended claims 13 and 33 which now recite, *"said event server responsively providing said event content to said user device until a time stamp of said access code expires,"* (emphasis added) which are limitations that are not taught or suggested either by the cited references, or by the Examiner's citations thereto. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 13 and 33 under 35 U.S.C. § 103.

Regarding the Examiner's rejection of dependent claim 42, for at least the reasons that this claim is dependent from an independent claim 21 whose limitations are not identically taught or suggested, the limitations of claim 42, when viewed through or in combination with the limitations of independent claim 21, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claim 42, so that this claim may issue in a timely manner.

For at least the foregoing reasons, the Applicants submit that claims 13, 33, and 42 are not unpatentable under 35 U.S.C. § 103 over Murphy in view of Johnson and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 13, 33, and 42 under 35 U.S.C. § 103.

Summary

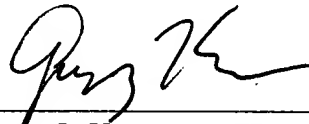
Applicants submit that the foregoing amendments and remarks overcome the Examiner's rejections. Because the cited references, or the Examiner's citations thereto, do not teach or suggest the claimed invention, and in light of the differences between the claimed invention and the cited prior art, Applicants therefore submit that the claimed invention is patentable over the cited art, and respectfully request the Examiner to allow claims 1-46 so that the present Application may issue in a timely manner. If there are any questions concerning this amendment, the Examiner is invited to contact the Applicants' undersigned representative at the number provided below.

Respectfully submitted,

Date: _____

3/1/05

By: _____



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